

DEPARTMENT OF TAXATION 2002 Fiscal Impact Statement

1. **Patron:** Howell

3. **Committee:** Passed House and Senate

4. **Title:** Local Business Tax Appeals

2. **Bill Number:** HB 318

House of Origin:

☐ **Introduced**

☐ **Substitute**

☐ **Engrossed**

Second House:

☐ **In Committee**

☐ **Substitute**

☒ **Enrolled**

5. **Summary/Purpose:**

This bill would provide that in order to utilize the administrative appeals process for the local machinery and tools tax, business tangible personal property tax and merchant's capital tax (the Local Business Taxes) through the local Commissioner of the Revenue and the state Department of Taxation, taxpayers must file their appeals with the local assessing officer within one year of the last day of the tax year for which the assessment is made, or within one year of the date of the assessment, whichever is later. Under current law, taxpayers must file their appeals with the local assessing officer within ninety days of the date of the assessment.

This bill would also clarify that in the event a taxpayer does not receive a final determination on an appeal from the local assessing officer within two years of filing the appeal, the taxpayer may treat the lack of action as an adverse final local determination eligible for appeal to the state Department of Taxation. Current law does not address this issue.

The provisions of the bill would be effective for all appeals filed on or after July 1, 2002. However, the provision authorizing a taxpayer who has not received a final local determination within two years to file an appeal with the state Department of Taxation would be effective for all appeals pending or filed on or after July 1, 2002.

6. **Fiscal Impact Estimates are:** Tentative (see Line 8)

6a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2001-02	\$0	0	GF
2002-03	(\$50,000)	1	GF
2004-04	(\$50,000)	1	GF

7. Budget amendment necessary: Yes.

Item 283, Department of Taxation

8. Fiscal implications:

Localities

As this bill would extend the time period for taxpayers to utilize the Local Business Taxes administrative appeals process, this bill would have a negative effect on local revenues to the extent that additional appeals are filed and are successful.

Department of Taxation

As this bill would require the department to rule on additional Local Business Tax appeals, the department would incur administrative costs under this bill.

The fiscal cost to the department of administering the additional Local Business Tax appeals is expected to be \$50,000 in FY 2003 and the same amount in FY 2004. This estimate is based on the assumption that the department would require one additional policy analyst to handle the additional appeals. It also assumes the current starting salary of a Tax Appeals Analyst, which is a Pay Band 5 position, is approximately \$39,000. Assuming additional benefit expenses of 30%, the total annual compensation and benefit cost per analyst would be approximately \$50,000. Accordingly, the total annual personnel costs (for one analyst) associated with this bill would be approximately \$50,000.

Taxpayers

A taxpayer who fails to meet the deadline to appeal assessments of Local Business Taxes through the Local Business Tax Administrative appeals process may only appeal the assessment to the local assessing officer or to the circuit court. Under this bill, taxpayers would have a longer period of time to appeal assessments of these taxes without incurring the expenses of litigation, such as attorney's fees and court reporter expenses, typically incurred in an appeal to a circuit court.

9. Specific agency or political subdivisions affected:

Department of Taxation
All localities

10. Technical amendment necessary: No.

11. Other comments:

Since 1996, when uniform ordinance provisions were enacted to amend the current Business, Professional and Occupational License (BPOL) statutes, the department has been responsible for ruling on appeals of BPOL tax audit assessments and issuing official written opinions on non-appeal questions. The 1996 amendments were intended to bring about uniformity in the administration of the local BPOL tax and to institute common procedures within localities for appealing BPOL assessments. The procedures for appealing BPOL assessments include the right to appeal certain assessments to the state Tax Commissioner.

In the 1999 General Assembly, a similar appeals process was established for the machinery and tools, business tangible personal property and merchant's capital taxes (the Local Business Taxes).

Under current law, in order to appeal assessments of Local Business Taxes through the Local Business Tax Administrative appeals process, taxpayers must file their appeals with the local assessing officer within ninety days of the date of the assessment. This bill would provide that in order to utilize the administrative appeals process, taxpayers must file their appeals with the local assessing officer within one year of the last day of the tax year for which the assessment is made, or within one year of the date of the assessment, whichever is later.

For appeals of state taxes, Code of Virginia § 58.1-1821 provides that taxpayers are allowed to file administrative appeals with the Department of Taxation within 90 days from the date of assessment. As a practical matter, the department allows taxpayers to file administrative appeals as long as judicial remedies are available. This practice provides for a more efficient process and avoids unnecessary litigation.

House Bill 317 would make similar changes to the BPOL Tax administrative appeals process.

c: Secretary of Finance